

OLL85- 3571
12 November 1985

MEMORANDUM FOR: /DCI
/DDCI
EX DIR
DDI/EA
DDO/SA
DDA/EO
DDS&T/EA
C/L&PD/OGC

STAT

FROM:
Deputy Chief, Legislation Division
Office of Legislative Liaison

SUBJECT: Restriction on Use of Government Vehicles for
Home-To-Work Transportation: H.R. 3614

1. Attached for your review and comment is a copy of H.R. 3614 which would limit the use of government vehicles for "official use". Under this bill, which was recently passed by the House, only the DCI would have unrestricted use of a government vehicle (section (b) (5)).

2. Perhaps the most troublesome aspect of this bill is found in Section 2(e) on page 6. If enacted into law, this provision would reduce the Agency's flexibility in permitting the use of government vehicles between home and work in the continental United States, even where such transportation is necessary or incident to the performance of duties.

3. Exceptions are made to these restrictions, but only for 15-day intervals and with the certification of need by the agency head (section (b) (7)). Certain other exceptions are made for danger or emergency (section (d)).

3. Last June we commented on a similar draft bill to OMB. A memorandum on that draft bill is included herewith.

4. The instant bill, H.R. 3614, has not been taken up by the Senate. In the event that H.R. 3614 does become active in the Senate, please give us your comments by November 25, 1985.

STAT

Attachments
as stated



Government Operations - 2

Home-to-Work Trips Restricted:

Bill Limits Officials' Use of Government Cars

The House Government Operations Committee Oct. 29 approved a bill (HR 3614) that would limit the number of top-level federal employees who are entitled to transportation from home to work.

The bill, approved by voice vote, specifies 62 officials who would be able to get a car at taxpayer expense, compared with the 128 now receiving them. Also, the bill spells out procedures agency heads must follow to designate other officials as eligible for government vehicles.

"If you're in the executive branch and not named in this bill," said Jack Brooks, D-Texas, committee chairman, "you don't get home-to-office transportation unless the procedures outlined in this bill are followed."

Brooks and Frank Horton, R-N.Y., ranking minority member of the committee, noted that many private companies provide their highest employees with vehicles. "We should do no less with regard to our top executives," said Horton.

But the bill came under fire from other members, who objected that it failed to include the legislative or judicial branches.

"It's a kind of [an] exercise in hypocrisy to say that abuse is only for one branch when we know abuse is in the other two branches as well," Robert S. Walker, R-Pa., charged. He said later he was unaware of any instances of abuse but believed the bill should not single out the executive branch.

Brooks and Horton said that the other branches came under the jurisdiction of other committees and that complicating the legislative path by referring the bill to other panels could kill it. Brooks warned, "If there is any hue and cry about this legislation, this one can go down, too."

Door-to-Door

The laws governing who is entitled to home-to-office transportation have been honored more in the breach than in practice. A 1946 law restricted such transportation to the president, the heads of executive agencies, medical and field officers, and diplomatic and consular officials. Later laws added additional employees.

— By Robert Rothman

Still, the number of people using government cars exceeded those who were listed in law. A survey by the General Accounting Office (GAO) in June found that 128 employees were receiving government transportation to work, and determined that of those, 79 were not entitled to it.

According to Brooks, each car cost the taxpayers between \$1,100 and \$9,500 a year to operate; thus, providing the 128 officials transportation could cost up to \$1.2 million a year.

The Reagan administration asked Congress to clarify the law and spell out who should receive transportation.

Under the bill approved by the committee, the 62 federal employees designated as entitled to home-to-office transportation would include the president and vice president, six officials in the Executive Office of the President, 10 employees of executive agencies, principal diplomatic and consular employees abroad, the U.S. representative to the United Nations, the deputy secretary of defense, under secretaries of defense, the chairman of the Joint Chiefs of Staff, the secretaries of the armed services, the director

of the CIA, the director of the FBI and the chairman of the board of governors of the Federal Reserve System. The bill does not stipulate who would be entitled to chauffeurs.

Cabinet members could be designated by the president from among the 10 agency employees. Federal executives in the highest pay levels were included in the bill, and they could designate their deputies, if the executive found it appropriate.

If an agency head decides that an emergency exists, he or she can assign a vehicle to another employee for 15 days, provided the determination is sent in writing to Congress.

Brooks said the bill would restrict the number of employees using government vehicles to those who need it to conduct official business.

He said he was once asked about his interest in a job in the Johnson administration but said he would take it only if he could get a limousine with a gooseneck lamp in the back, so that he could read while traveling to work.

"Now," he said, "I think for most people we're just going to give them the gooseneck lamp."

GOVERNMENT OPERATIONS NOTES

Compensation for Hostages Approved

The House Foreign Affairs Committee Oct. 29 approved a bill (HR 2851) that would grant benefits to government employees held hostage at home or abroad, after broadening the bill to include military personnel.

HR 2851, which already has been reported (H Rept 99-201, Part I) by the House Post Office and Civil Service Committee, would authorize agency heads to put hostages' pay in interest-bearing accounts, and would grant medical and educational benefits to their families. Also, it would award payments to victims of terrorism based on the average worldwide per diem allowance for government workers, currently about \$74 per day. (*Weekly Report* p. 2063)

The bill would grant compensation to the 52 Americans who were held hostage in Iran from November 1979 to January 1981.

Members praised the provisions granting benefits to the families of hostages, noting that concern over a spouse and children exacerbates a hostage's ordeal. The panel by voice vote adopted an amendment by John McCain, R-Ariz., to include military personnel.

'Flexitime' Extension Cleared

Legislation extending for two months authority for government workers to stagger their hours or work four 10-hour days was cleared Oct. 25 by the Senate.

The bill (HR 3605) would extend the 'flexitime' program through Dec. 31. A House-passed permanent extension (HR 1534) is being blocked in the Senate by the threat of controversial amendments. (*Weekly Report* p. 2185)

99TH CONGRESS
1ST SESSION

H. R. 3614

To restrict the use of government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 1985

Mr. BROOKS (for himself, Mr. HORTON, Mr. SAXTON, and Mr. DIOGUARDI) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To restrict the use of government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1344 of title 31, United States Code, is amend-
4 ed to read as follows:

5 **"§ 1344. Passenger carrier use**

6 “(a)(1) Funds available to an executive agency, by ap-
7 propriation or otherwise, may be expended by the executive
8 agency for the maintenance, operation, or repair of any pas-

1 senger carrier only to the extent that such carrier is used to
2 provide transportation for official purposes. Notwithstanding
3 any other provision of law, transporting any individual other
4 than those listed in subsections (b) and (c) between such indi-
5 vidual's residence and such individual's place of employment
6 is not transportation for an official purpose.

7 “(2) For purposes of paragraph (1), transportation be-
8 tween the residence of an officer or employee and various
9 locations that is required for the performance of field work is
10 transportation for an official purpose, when approved in writ-
11 ing by the head of the agency.

12 “(b) A passenger carrier may be used to transport be-
13 tween residence and place of employment the following offi-
14 cers and employees of executive agencies:

15 “(1)(A) the President and the Vice President;

16 “(B) no more than 6 officers or employees in the
17 Executive Office of the President, as designated by the
18 President;

19 “(C) no more than 10 additional officers or em-
20 ployees of executive agencies, as designated by the
21 President;

22 “(2)(A) officers compensated at Level I of the Ex-
23 ecutive Schedule pursuant to section 5312 of title 5,
24 United States Code; and

1 “(B) a single principal deputy to an officer de-
2 scribed in subparagraph (A) of this paragraph, when a
3 determination is made by such officer that such trans-
4 portation is appropriate;

5 “(3) principal diplomatic and consular officials
6 abroad, and the United States Ambassador to the
7 United Nations;

8 “(4) the Deputy Secretary of Defense and Under
9 Secretaries of Defense, the Secretary of the Air Force,
10 the Secretary of the Army, the Secretary of the Navy,
11 the Joint Chiefs of Staff, and the Commandant of the
12 Coast Guard;

13 “(5) the Director of the Central Intelligence
14 Agency and the Director of the Federal Bureau of
15 Investigation;

16 “(6) the Chairman of the Board of Governors of
17 the Federal Reserve System;

18 “(7) an officer or employee with regard to whom
19 the head of an executive agency makes a determina-
20 tion, which shall be effective for no longer than 15 cal-
21 endar days, that highly unusual circumstances present
22 a clear and present danger, that an emergency exists,
23 or that other similarly compelling operational consider-
24 ations make such transportation essential to the con-
25 duct of official business.

1 “(c) A passenger carrier may be used to transport be-
2 tween residence and place of employment any person for
3 whom protection is specifically authorized pursuant to section
4 3056(a) of title 18, United States Code or for whom trans-
5 portation is authorized pursuant to section 28 of the Foreign
6 Service Act (22 U.S.C. 2700).

7 “(d)(1) Any determination made under paragraph (7) of
8 subsection (b) shall be in writing and shall include the name
9 and title of the officer or employee affected, the reason for
10 such determination, and the duration of the authorization for
11 such officer or employee to use a passenger carrier for trans-
12 portation between residence and place of employment.

13 “(2) If a clear and present danger, an emergency, or a
14 similarly compelling consideration described in subsection
15 (b)(7) extends or may extend for a period in excess of 15
16 calendar days, the head of the executive agency shall deter-
17 mine whether authorization under subsection (b)(7) shall be
18 extended beyond 15 calendar days up to a period of 90 addi-
19 tional calendar days. Determinations made under this para-
20 graph may be reviewed by the head of such agency, and,
21 where appropriate, subsequent determinations may be made
22 whether such danger, emergency, or consideration continues
23 to exist and whether an additional extension, not to exceed
24 90 calendar days, may be authorized.

1 “(3) The authority to make designations under para-
2 graphs (1)(B) and (1)(C) and to make determinations pursuant
3 to paragraphs (2)(B) and (7) of subsection (b) and paragraph
4 (2) of this subsection may not be delegated, except that, with
5 respect to the Executive Office of the President, the Presi-
6 dent may delegate his authority under such paragraph (7) to
7 an officer in such Executive Office. No determination under
8 this section may be made solely or principally for the comfort
9 or convenience of the officer or employee.

10 “(4) Notification of each designation or determination
11 made under paragraphs (1)(B), (1)(C), (2)(B), and (7) of sub-
12 section (b) and paragraph (2) of this subsection, including the
13 name and title of the officer or employee affected, the reason
14 for any such determination under such paragraph (7), and the
15 expected duration of the authorization, shall be transmitted
16 promptly to the Committee on Government Operations of the
17 House of Representatives and the Committee on Governmen-
18 tal Affairs of the Senate.

19 “(e) As used in this section—

20 “(1) the term ‘passenger carrier’ means a passen-
21 ger motor vehicle, aircraft, boat, ship, or other similar
22 means of transportation that is owned or leased by the
23 United States Government; and

24 “(2) the term ‘executive agency’ has the meaning
25 given by section 103 of this title and includes any ex-

1 executive department, military department, Government
2 corporation, Government-controlled corporation, or
3 other establishment in the executive branch of the
4 Government (including the Executive Office of the
5 President and the Smithsonian Institution), any inde-
6 pendent regulatory agency, or any nonappropriated
7 fund instrumentality.”.

8 SEC. 2. (a) Title 10, United States Code, is amended—

9 (1) by striking out section 2637 thereof; and

10 (2) in the table of contents of chapter 157 thereof,
11 by striking out the item pertaining to section 2637.

12 (b) Section 636(a)(5) of the Foreign Assistance Act of
13 1961 (22 U.S.C. 2396(a)(5)) is amended by striking out
14 “(without regard to the limitations contained in section 5 of
15 Public Law 63-127, as amended (31 U.S.C. 638a(c)(2)) and
16 section 201 of Public Law 85-468 (31 U.S.C. 638c))”.

17 (c) Section 48 of the Arms Control and Disarmament
18 Act (22 U.S.C. 2588) is amended by striking out “without
19 regard to the limitations contained in section 78(c) of title 5
20 of the United States Code”.

21 (d) Section 303 of the State Department Basic Authori-
22 ties Act of 1956 (22 U.S.C. 2678) is amended by striking out
23 subsection (b).

24 (e) Section 8(a)(1) of the Central Intelligence Agency
25 Act of 1949 (50 U.S.C. 403j(a)(1)) is amended by striking out

1 "transportation of officers and employees of the Agency in
2 Government-owned automotive equipment between their
3 domiciles and places of employment, where such personnel
4 are engaged in work which makes such transportation neces-
5 sary, and transportation in such equipment" and inserting in
6 lieu thereof "transportation in Government automotive
7 equipment".

○

NOTE FOR:

DCI
DDCI
EX DIR
DDI/EA
DDO/SA
DDA/EO
DDS&T/EA
Chief/L&PD/OGC

STAN
Presc

STAT

FROM:

Deputy Chief, Legislative Division/OLL

SUBJECT:

Draft Legislation on the Use of Government
Vehicles by Federal Officials: Comments for OMB

1. The Office of Management and Budget seeks our views on draft legislation which would expand eligibility of government officials to receive home-to-work transportation.

2. We have been informed by OMB that the Comptroller General of the US rendered an opinion in 1983 defining what public officials were eligible for home-to-work transportation. As it turned out, far more public officials were using such transportation than the law permitted as defined by the Comptroller General. This proposed draft bill is for the purpose expanding eligibility so that the law conforms to actual use.

3. Presently, only two officials in the Agency are eligible for home-to-work transportation: the DCI and DDCI. However such eligibility is derived from the National Security Act and the Central Intelligence Agency Act. The draft bill would be redundant with respect to government provided transportation for the DCI and the DDCI. It also appears that the next level of management at the CIA would also be eligible for such transportation if the bill becomes law.

4. Even though OMB asked for comment, they hastened to add that introduction of the bill may invite criticism about "pampered public officials." Media and the Congress would use the bill as an opportunity to criticize all government workers. It is also doubtful whether the bill would pass anyway

4. So that we may provide a timely reply to OMB, please render an oral comment by June 4, 1985

STAT
STAT

Distribution:

Original - Addressees

1 - D/OLL	w/enc.
1 - DD/OLL	"
1 - OLL Chrono	"
1 - LEG/Subject -	GAO "
1 - JEM Signer	"

STAT

LEG/OLL (3 June 1985)

NOTE: In the opinion of the Comptroller General, the following officials are currently authorized to be transported between their domiciles and places of employment:

- (1) the President;
- (2) the heads of the Department of Agriculture, Commerce, Defense, Education, Energy, HHS, HUD, Interior, Justice, Labor, State, Transportation and the Treasury;
- (3) principal diplomatic and consular officials (this includes ambassadors, ministers and charges d'affaires);
- (4) medical officers on out-patient medical service;
- (5) officers or employees performing field work when transportation between domicile and place of employment is necessary and has been approved by the head of the agency; and
- (6) the Deputy Secretary of Defense, the Under Secretaries of Defense and the members of the Joint Chiefs of Staff.

The attached draft bill would authorize the following additional persons to receive such transportation:

- (1) the Director of the FBI;
- (2) persons for whom safety, security or other operational considerations make transportation, on a temporary basis, essential to the conduct of official business;
- (3) the Vice President;
- (4) certain persons in the White House office to be designated by the President;
- (5) the deputy heads of cabinet agencies;
- (6) the Secretary and Under Secretary of the Army, Navy and Air Force;
- (7) the heads and deputy heads of up to 3 agencies deemed by the President to have cabinet status;

- (8) the heads of the following agencies: Agency for International Development, NASA, Veterans Administration, Council of Economic Advisors, Office of Science and Technology Policy, Arms Control and Disarmament Agency, United States Information Agency, Federal Aviation Administration, National Science Foundation, Office of Personnel Management, Federal Highway Administration, Environmental Protection Agency, Central Intelligence Agency and Office of Management and Budget;
- (9) members of the Joint Chiefs of Staff, the Under Secretaries of Defense and the Deputy Director of the Central Intelligence Agency;
- (10) Members and employees of Congress as designated by each House;
- (11) the Comptroller General of the United States;
- (12) the Chief Justice and Associate Justices of the Supreme Court; and
- (13) the spouse of any officer, employee or member listed above, (except for employees included under category 2) when such transportation is advantageous to the Government and incidental to the performance of official business by the listed person.

Certain of the officials listed in the bill who will be authorized to receive transportation (e.g., the Vice President) may already be receiving such transportation pursuant to opinions of their respective General Counsels that the transportation is necessary for personal security.

A BILL

To authorize the transportation of officers or employees of the Federal government for security reasons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. Title 31, United States Code, Section 1344 is amended to read as follows:

"Sec. 1344. Passenger motor vehicle and aircraft use

"(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment except--

"(1) medical officers on out-patient medical service;

"(2) officers or employees performing field work requiring transportation between their domiciles and place of employment when the transportation is approved by the head of the agency; and

" (3) when an agency head makes a determination that an emergency exists or that highly unusual circumstances present safety, security, or other operational considerations which make such transportation, on a temporary basis, essential to the conduct of official business, provided that the Director of the Federal Bureau of Investigation shall be afforded such transportation on a permanent basis. The authority to make such a determination is non-delegable. The convenience or comfort of the employees to be transported is not a sufficient reason for the authorization of transportation under this subsection.

" (b) This section does not apply to a motor vehicle or aircraft for the official use of--

" (1) the President and the Vice President;

" (2)(A) such persons in the White House Office, in the discretion of the President, whose compensation is fixed at rates at least equal to the rate of basic pay set for level II of the Executive Schedule pursuant to 3 U.S.C. § 105(a)(2)(A);

"(B) the heads and deputy heads of executive departments listed in section 101 of Title 5, the Department of the Army, the Department of the Navy, the Department of the Air Force, and such other agencies deemed by the President to have Cabinet-level status or the equivalent, provided that no more than three such agencies shall be so designated at any time; provided further that transportation under this subsection shall be granted only upon the determination of the agency head that such transportation is appropriate, and provided further that the authority to make this decision shall be non-delegable;

"(C) the heads of all other establishments in the Executive Branch whose positions are classified at Level II of the Executive Schedule by section 5313 of Title 5, but not including the heads of those agencies specified in section 3502(10) of title 44;

"(D) The Joint Chiefs of Staff, the two Undersecretaries of Defense, and the Deputy Director of the Central Intelligence Agency;

"(E) such members and employees of the Congress as each House may by rule direct;

"(F) The Comptroller General of the United States; and

"(G) the Chief Justice and Associate Justices of the United States, in the discretion of the Chief Justice; or

"(3) principal diplomatic and consular officials.

"(c) The transportation of the spouse of any officer, employee, or member listed in subsection (b) of this section may be considered as being provided for an official purpose when such transportation is advantageous to the Government and incidental to the performance of official business by the listed officer, employee, or member."